

Dear Sir,

I am writing in connection with the attached application for a variance to the rear setback on 8 Legend Road, Benbrook TX, 76109. The intention is to construct a new single family residence on the lot. As such based on the current zoning code a set of 25' is required at the front of the property and 20' at the rear.

The property that I am seeking to develop covers just 22% of the lot area but with the shape of the lot the property footprint crosses over the set back line and I am seeking a variance such that the rear setback is modified from 20' to 15'

Further as I understand that the building permit must be in hand within a set 90 days if the variance request is granted, then I would also request a 45 day extension to this period making it a total of 135 days from the date of the ZBA meeting.

I set out below why I represent that a variance on the current setback is warranted in the context of the State and City requirements.

STATE REQUIREMENTS

1. The variance is not contrary to the public interest;

This variance request is not contrary to the public interest as the proposed residential development is a) an improvement on the scrubland that previously existed at the site which was an eyesore and the site of illegal dumping b) it would add additional reasonably priced housing stock to the local community c) the proposed project is an improvement to the neighborhood and result in an overall increase in the property value and tax base created by the improvement.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship;

- The lot is not a typical lot shape in that the vast majority of residential lots are long in depth and shorter in width. – Figure (A) This property is both twice as wide as deep and then further is not a true rectangle and has one end that is 75% of the length of the other side creating a wedge shape. Figure (B).
- In typical lots the rear set back is entirely appropriate to ensure that residential structures are not built back-to-back. In the case of this lot the rear property is a commercial building with a parking lot and thus does not create an undue burden on any neighboring residential property. Figure (C)
- In addition, the zoning ordinances are designed to be a blanket approach which attempts to cover all lot shapes, but in the main the regular shaped lots are orientated with the long edge of the lot going into the property as set out above. However, in this case the strict adherence creates a hardship because of the irregular lot shape.

- This irregular lot shape where the depth of the buildable area varies between 28 feet and 45 feet means that just 41% of the lot is able to be built on, a figure lower than the average across regular shaped lots which is 62.5%— shown Fig [C]
 - The zoning ordinances imposed on the lot create a hardship such that it's safe to assume it is the reason the lot has remained undeveloped as a residential property, within an established area densely populated with residences. Further, it is the **only** residential lot in the area that has not been developed for that purpose. If there was no hardship this lot would have been developed along with the rest of the houses in the area.
 - Per City of Benbrook zoning ordinance, the A-1 zoning classification is "the most restrictive of all residential zones and should be applied in areas of larger lots". I think a reasonable person would naturally deduce "larger lots" inherently presumes "deeper and wider lots" ie larger than the typical 6000 sq ft lot.
 - The rear yard both abuts a commercial zone, and is also adjacent to a commercial zone. The rear yard setback for this "E" commercial zone is 10'; however, it's worth noting that when the commercial zone backs up to a residential zone, the commercial property is required to have a 20' yard setback. For those reasons, it's safe to assume the intent of the residential 20' yard setback is to protect a homeowner from having an intrusive neighboring structure of another property at its rear. In this case, I as the residential property am comfortable being as close to a commercial structure as the City would allow another commercial structure to be, being 10'
 - Finally with an expected and imminent change in the flood plain requirements then when this site was presented to the City of Benbrook for approval then the pad which is shown on Figure [x] was designed. This pad requires appropriate drainage which then creates further difficulties in the location and placing of a home. Figure (D)
3. The spirit of the ordinance must be observed
- The spirit of the ordinance is maintained as following from the last point with commercial properties abutting 8 Legend Road as owner I am prepared to have the same set back as Commercial structures would require.
4. Substantial justice must be done.
- Substantial justice would be demonstrated to have been done such that the substance of the ordinance is kept intact and the decision is given to a standard of fairness.

The Following City requirements also need to be satisfied.

1. That there were special circumstances or conditions affecting the land involved such that the strict application of the provisions of this title deprive the applicant of reasonable use of his land

This point is covered under point 2 above detailing the shape of the lot, vis a vis the blanket set of regulations and the difficulty in these laws applying to 100% of the lots in existence

2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant

This point is also covered above in that up until now this lot has remained vacant and with this variance a family home will be able to be constructed.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area

The granting of the variance will have a positive impact on the surrounding area by improving the use of the land which would otherwise be a potential tipping site and in a dead-end street the opportunity for nefarious activity.

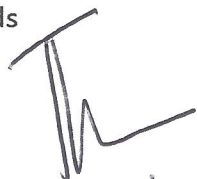
4. That the granting of a variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this title.

The granting of the variance will have no impact on the development of other land in the area.

In summary, Zoning ordinances are unique in that they attempt to apply a uniform set of regulations to properties which can be very different in size/topography access etc. I believe therefore in this case the ZBA would be permitted to modify an otherwise legitimate restriction in this case where due to unusual conditions, (shape of the lot and flood plain issues) it becomes more burdensome than was intended, and further it may be modified without impairment of the public purpose. There is no evidence that granting of the variance would create any disadvantage to other comparable or adjacent properties within the district as the properties immediately abutting the subject property are commercial in nature and carry a lesser burden of set back.

Kindest regards

Tim Townhill



10/26/21

FIGURE 'A' TYPICAL RESIDENTIAL LOT

6000 sq ft LOT

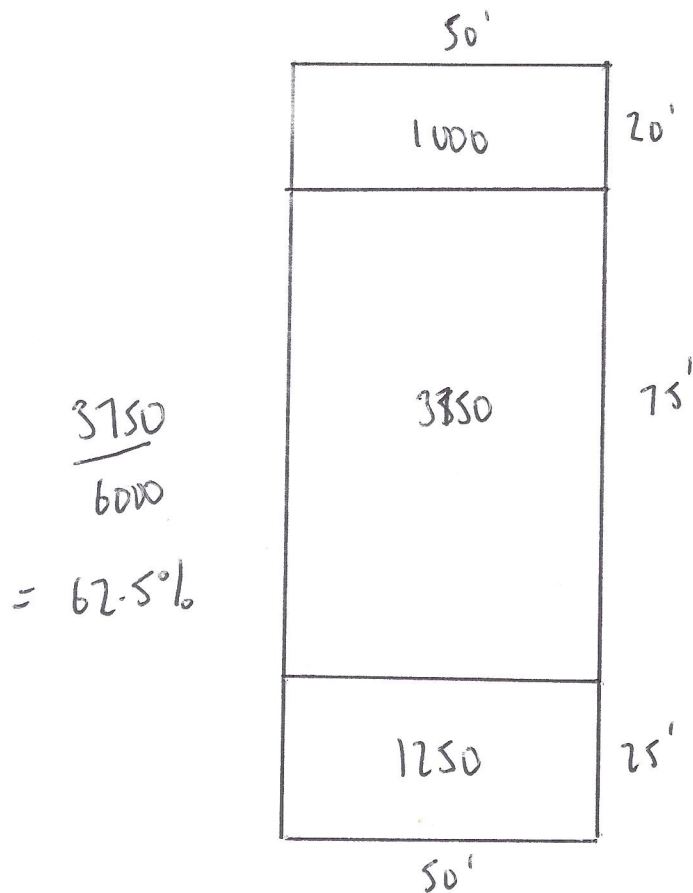
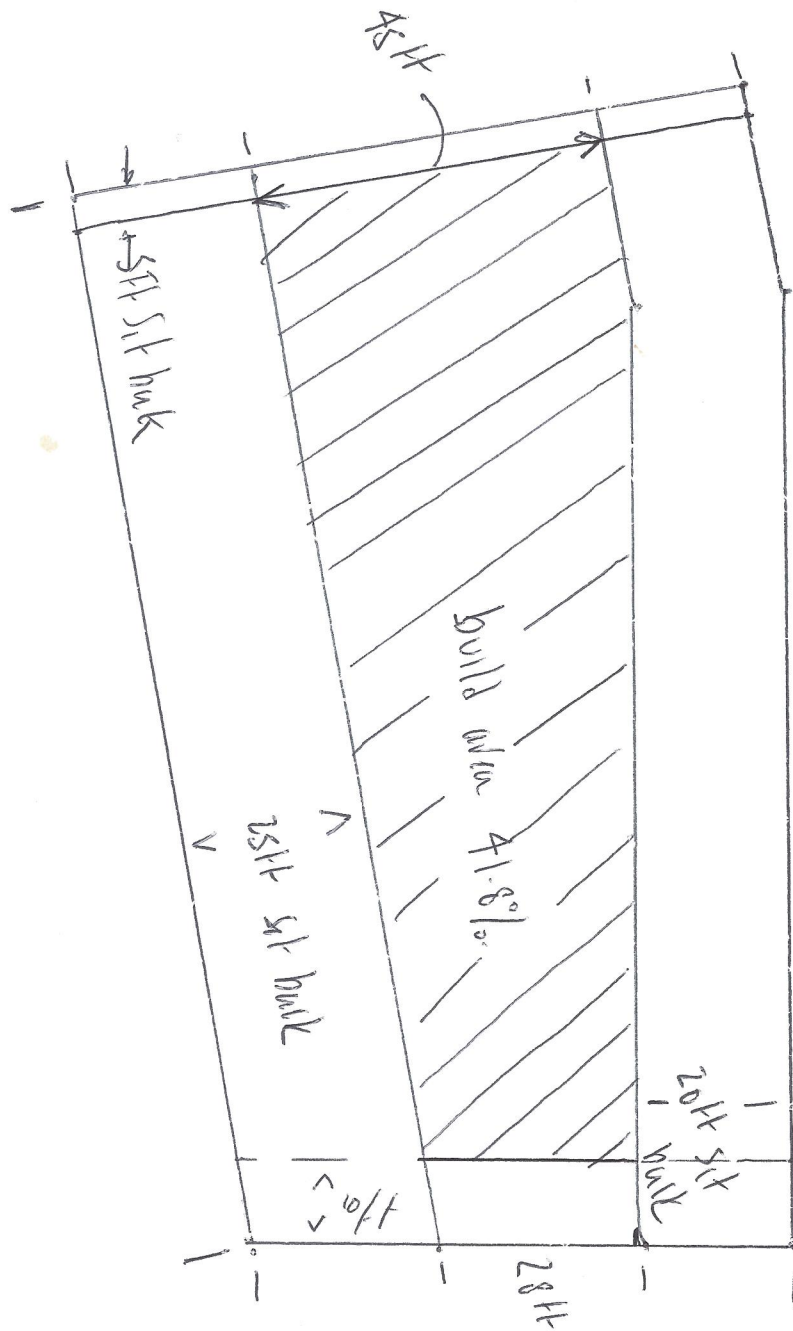


FIGURE - LOT SHAPE





EXISTING SITE | TOWNHILL RESIDENCE | 10/11/2021

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